

# Virtual Compliance Activities in the Retail Cannabis Sector

JEREMY LOCKE, DIRECTOR – REGULATORY COMPLIANCE BRANCH



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Commission of Ontario



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# Alcohol and Gaming Commission of Ontario

## ABOUT THE AGCO

- Established in 1998, the AGCO is a **provincial regulatory agency** reporting to the **Ministry of the Attorney General**
- *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996* establishes AGCO **mandate and governance**.
- **Registrar** has independent decision-making authority
- Governed by a **Board of Directors**
- Approximately 697 funded positions, including 165 staff from the **Ontario Provincial Police**
- **Seven divisions**, each led by a member of the Executive Committee, including the Investigations and Enforcement Bureau which is overseen by an OPP Chief Superintendent.



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## Mandate

- To regulate the alcohol, gaming, horse racing and private cannabis retail sectors in accordance with the principles of honesty and integrity, and in the public interest.

## Key Regulatory Activities

- Licensing and registration
- Auditing
- Compliance activities; including inspections, mystery shops and investigations
- Testing of gaming equipment
- Officiating at races
- Education, training and awareness focused on compliance



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# Regulatory Responsibilities



OLG lotteries,  
casinos, slot  
machine facilities  
and internet gaming



Licensed charitable  
gaming centres  
and lotteries



Sale and  
service of  
beverage  
alcohol



Privately run  
recreational  
cannabis retail  
stores



Horse racing



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# AGCO Business at a Glance

Line of business	Statutes Administered	Regulatory Authority	Key Activities
 Liquor	<ul style="list-style-type: none"> <li>Liquor Licence Act</li> <li>Liquor Control Act</li> <li>Wine Content and Labelling Act, 2000</li> </ul>	Regulate bars and restaurants, manufacturers, liquor delivery services, ferment-on-premises, grocery stores and manufacturer retail stores – also administer the Special Occasion Permit program.*	<ul style="list-style-type: none"> <li>Licensing and registration</li> <li>Auditing</li> <li>Inspections and investigations</li> <li>Testing, approving and monitoring gaming equipment</li> <li>Officiating at races and human/equine drug testing</li> <li>Education, training and awareness focused on compliance</li> </ul>
 Gaming	<ul style="list-style-type: none"> <li>Gaming Control Act, 1992</li> <li>Charity Lottery Licensing Order-in-Council, 1413/08</li> </ul>	Regulate all legal gaming in Ontario, including casinos, charitable gaming, Ontario Lottery and Gaming Corporation (OLG) lotteries, OLG internet gaming and OLG charitable gaming centres.**	
 Horse Racing	<ul style="list-style-type: none"> <li>Horse Racing Licence Act, 2015</li> </ul>	Responsible for protecting the integrity of the sport and health and safety of the horse through officiating races, enforcing the Rules of Racing, overseeing equine drug testing, etc.	
 Cannabis	<ul style="list-style-type: none"> <li>Cannabis Licence Act, 2018</li> </ul>	License and regulate privately-operated recreational cannabis retail stores.	

\*AGCO does not regulate LCBO (except hours of sale) or The Beer Store (except hours of sale and store locations). AGCO does not regulate the illegal production/sale of liquor.

\*\*AGCO has no authority over illegal gambling (gray market internet gaming sites, sportsbooks, Daily Fantasy Sports, etc.).



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# The AGCO's Modern Regulatory Approach

## Risk-Based

Focus on what matters most.

## Outcomes-Based

Focus on the what rather than the how of compliance.

## Compliance-Focused

Proactively work with licensees and registrants to ensure regulatory compliance.



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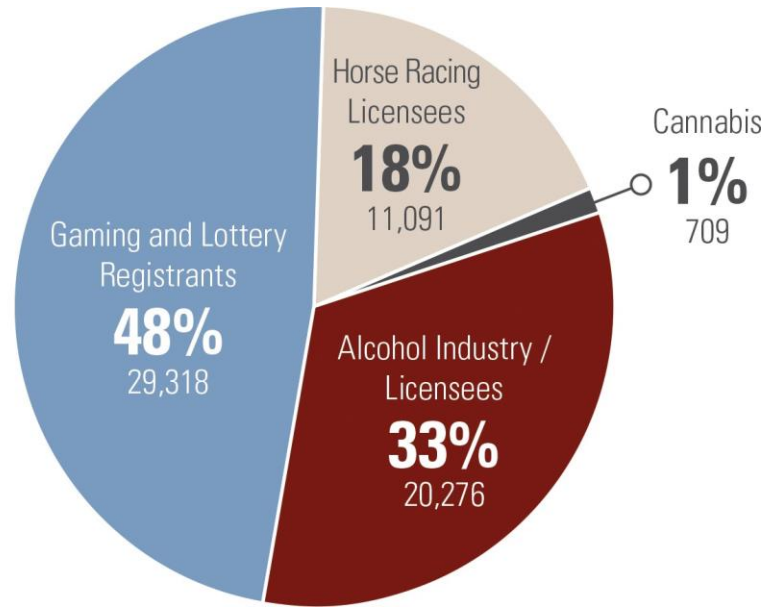


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# Number of AGCO Licence/Registration/Permit Holders

Total Licensees and Registrants  
**61,394**



2019/20 Statistics



In addition, approximately 62,000 Special Occasion Permits (SOPs) were issued by the AGCO for events such as weddings, private receptions, charity fundraisers, festivals and industry promotional events.



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# Virtual compliance activities in the retail cannabis sector

## TIMELINES

- **2018 – Compliance 2020 Vision Announced**
  - Transformative change
  - Create a compliance model that is as “effective as needed and efficient as possible”
- **2019 – Project work**
  - Elimination of low/no value compliance activities
  - Blending of compliance functions
  - Review of compliance approaches
  - Build-out of new compliance tools
- **2020 – COVID-19**
  - An opportunity to advance the use of technology
  - Balance the need to ensure compliance while supporting public health objectives
- **2021 – Integration of technology solutions**
  - Work has now begun to assess effectiveness of technology solutions
  - Integrate virtual activities into post COVID-19 operations



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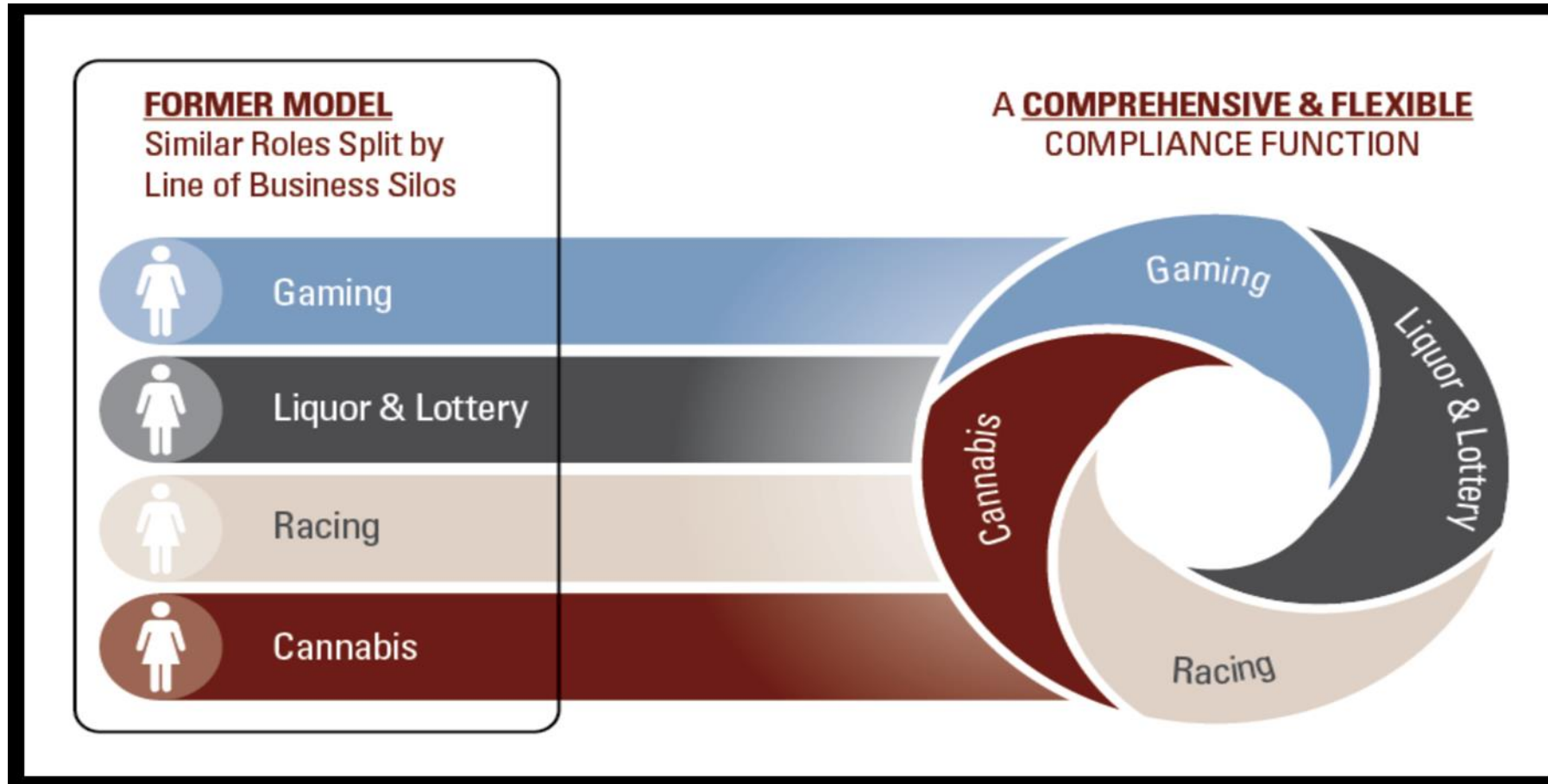


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# The AGCO Compliance Modernization journey



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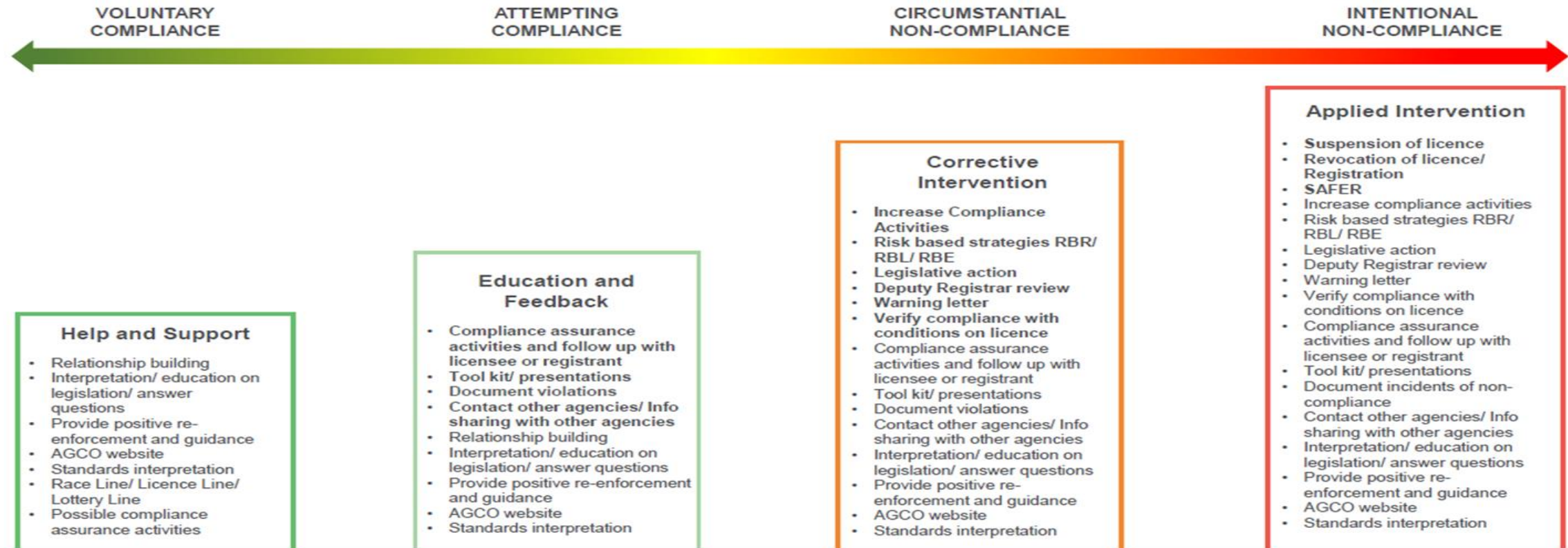
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# AGCO Compliance Continuum



*Informed by: Audits/Analytics/Inspections, Complaints, External reports, Regulatory Submissions/Notifications*

v.1.0



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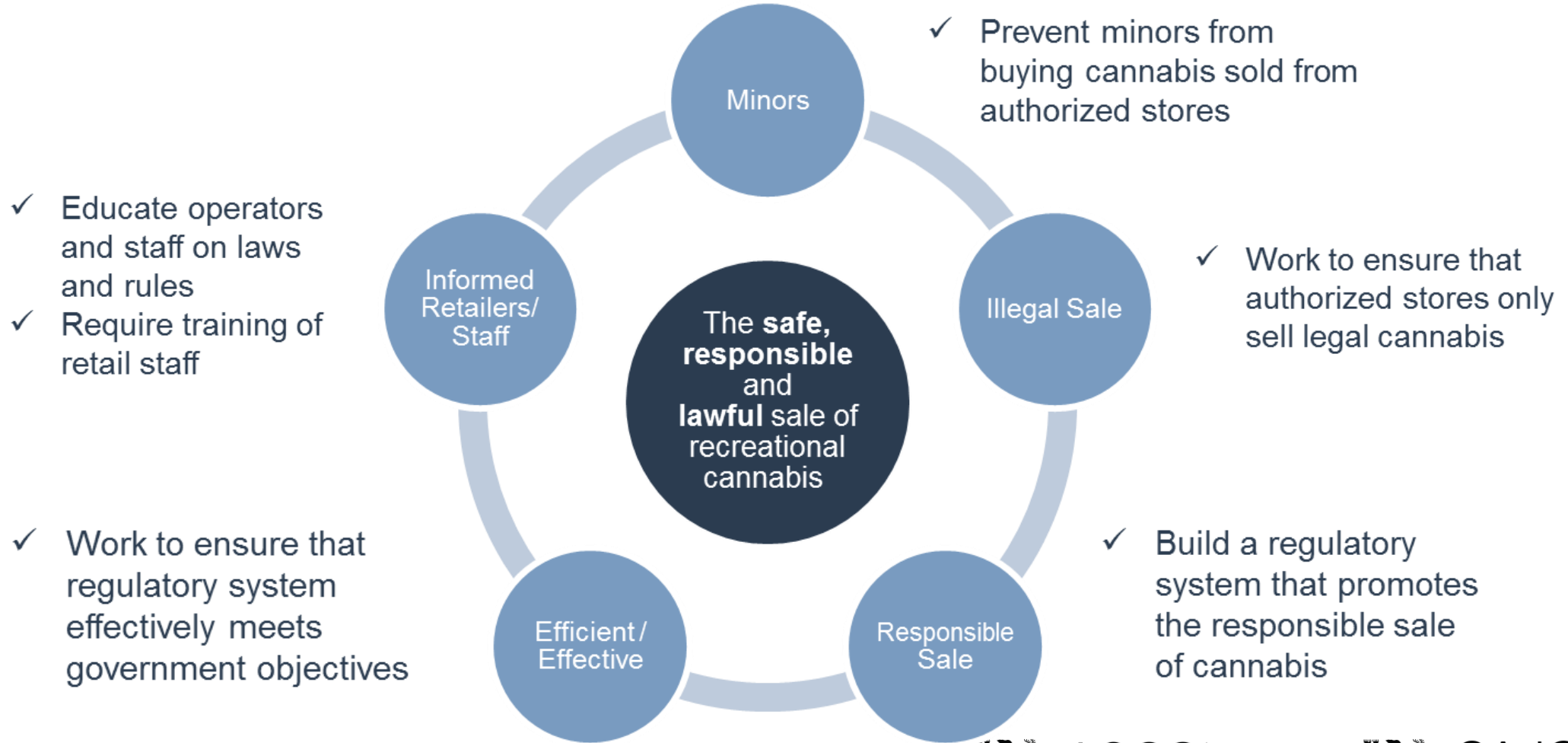
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# Cannabis Compliance Framework



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## Why now?

- While virtual engagements were a planned element of our modernization, COVID-19 presented an opportunity to accelerate our implementation
- Alignment with the AGCO objective of delivering modern approaches to regulation
- Need to ensure business continuity (compliance and education for growing cannabis retail sector) while supporting public health objectives
- Supports corporate “remote work whenever possible” objective
- Removes geographic boundaries (reduction in travel cost, more efficient allocation of resources)



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# About AGCO Compliance Activities

- The use of technology to carry out select compliance activities
  - Skype, Facetime, MS Teams etc.
- Virtual Compliance Activities allows Compliance Services to continue communications between the AGCO and our stakeholders during the pandemic and beyond
- We are not alone – AGCO is one of several regulators utilizing virtual technology to ensure compliance
- Virtual Compliance Activities are a new tool in our toolbox



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## Considerations...

- Not a replacement (nor the best solution) for all in-person engagements/inspections
- Not to be used exclusively to measure/assess compliance
- Compliance personnel must assess the risk vs benefit of in-person engagement
  - Risk of negative compliance outcome(s)
  - Risk to health and safety
- Technological limitations of regulated entities



# Risks of virtual activities

Risk	Mitigation/Considerations
Connectivity	<ul style="list-style-type: none"> <li>-The ability to engage in-person remains where connectivity prevents virtual engagement</li> <li>- Adapt policies to allow for flexibility to use multiple platforms (Facetime, Skype, Whatsapp and MS Teams etc.)</li> </ul>
Key elements of inspection could be hidden/misrepresented by regulated entity.	<ul style="list-style-type: none"> <li>- Compliance will be validated with in person inspections/other compliance activities based on risk</li> </ul>
Advance notice/scheduling of activities potentially gives a false representation of compliance	<ul style="list-style-type: none"> <li>- Compliance is the objective of all AGCO inspection activities. Virtual engagements are only one tool to assess compliance – even in a pandemic world</li> </ul>
Diminished ability to develop compliance relationships with regulated entities	<ul style="list-style-type: none"> <li>- Ongoing communication is critical to the compliance relationship. Compliance personnel must deliver on our commitment to a high level of engagement with operators to support developing compliance relationships</li> </ul>



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# The implementation journey...

- The nature of the crisis did not allow for traditional planning and implementation
  - March 2020
    - Early in COVID-19, a Response Team was formed to assist with the sudden pivot in approach
  - April 2020
    - COVID-19 Response Team was tasked to develop the Virtual Compliance Activity framework
  - May 2020
    - Soft launch of virtual activities
    - Tip sheet for compliance personnel released
  - June/July 2020
    - Training program development
    - Development of custom virtual backgrounds for use in virtual activities
  - August 2020
    - Delivery of training to compliance personnel
  - August 2020 – February 2021
    - Integration of virtual activities into the suite of compliance tools



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# Legal Considerations

- No new legal authorities were required, the current framework does not prescribe the way in which inspections must occur
- One must consider the rules of evidence for your environment
- AGCO appeals are heard by the Licence Appeal Tribunal in Ontario (LAT)
- LAT has pivoted to conducting all hearings virtually
- No case where evidence of infractions has been noted through solely virtual inspections has been heard yet

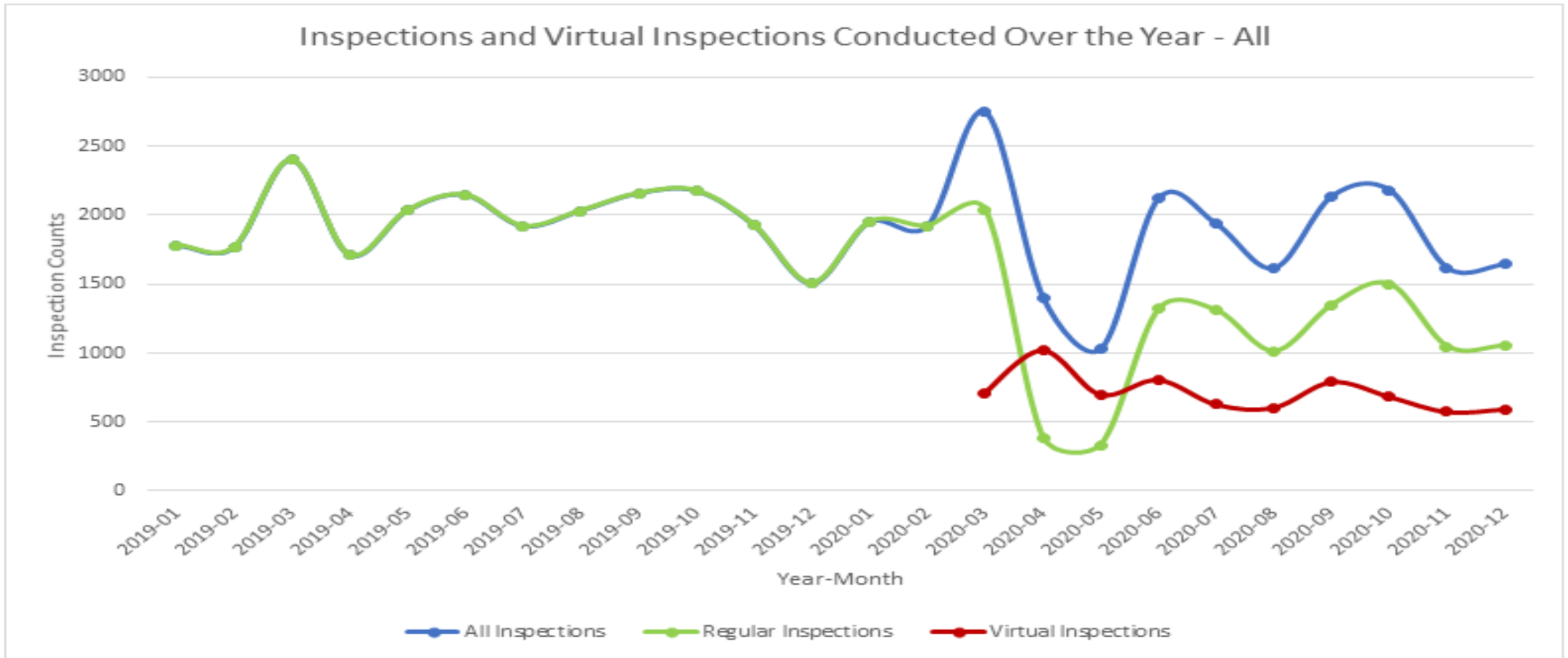


# Virtual Backgrounds





# Statistics



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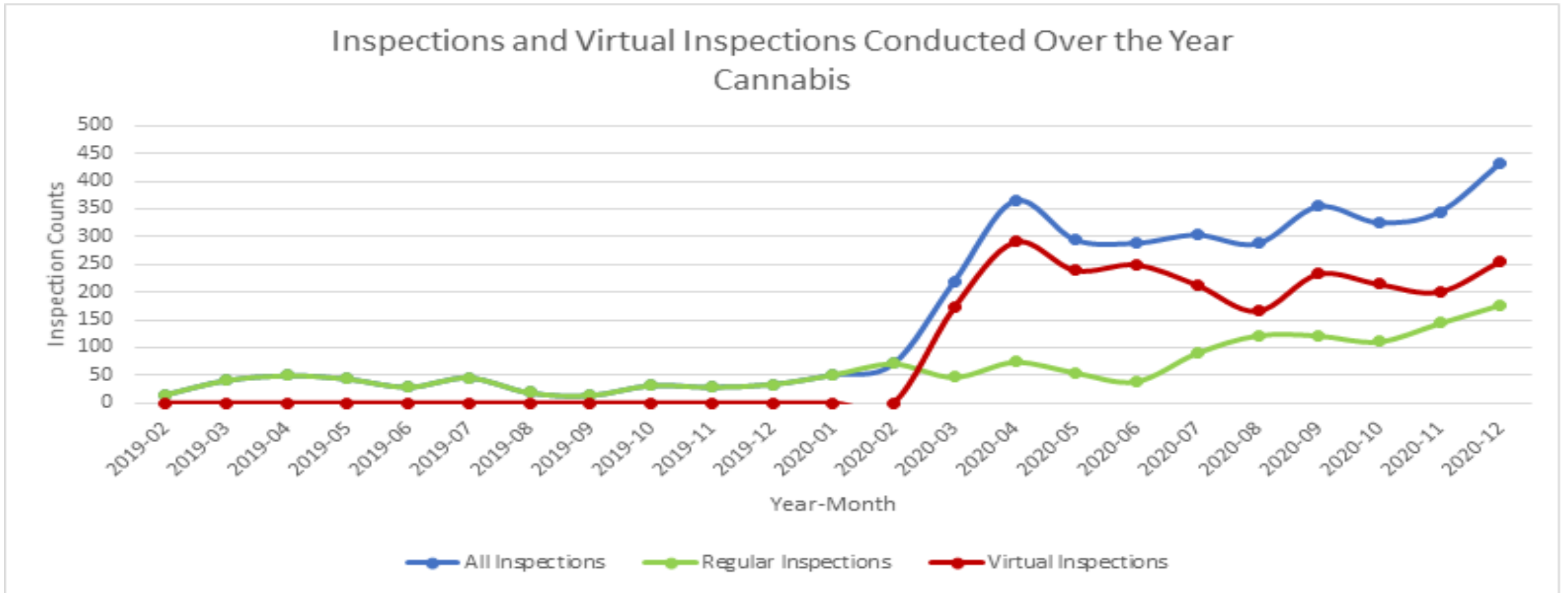
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# Statistics



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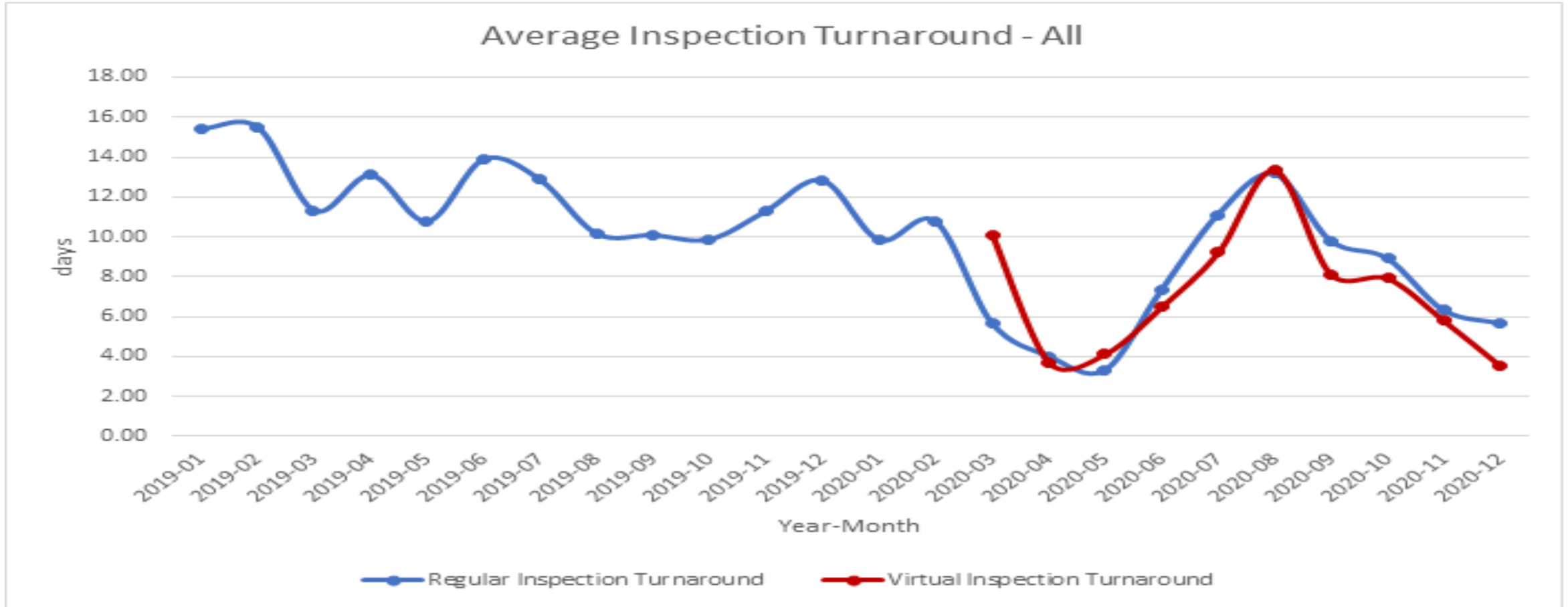
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# Statistics

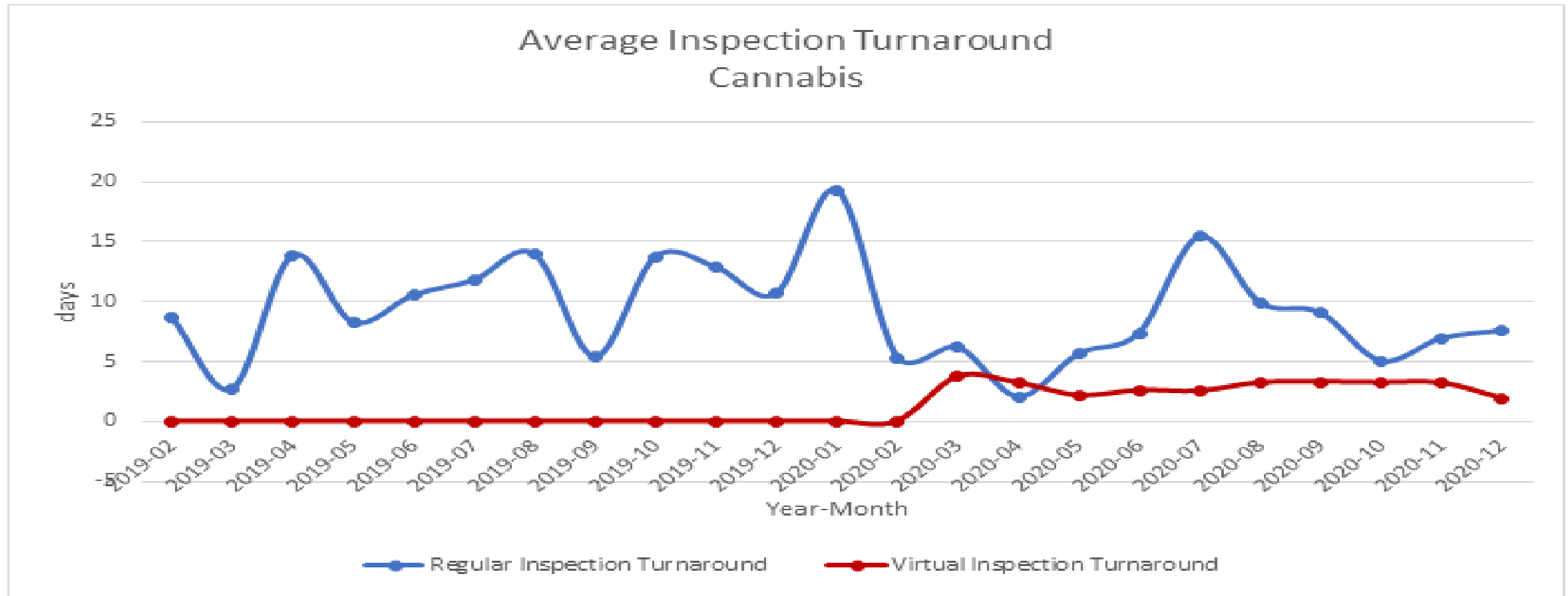


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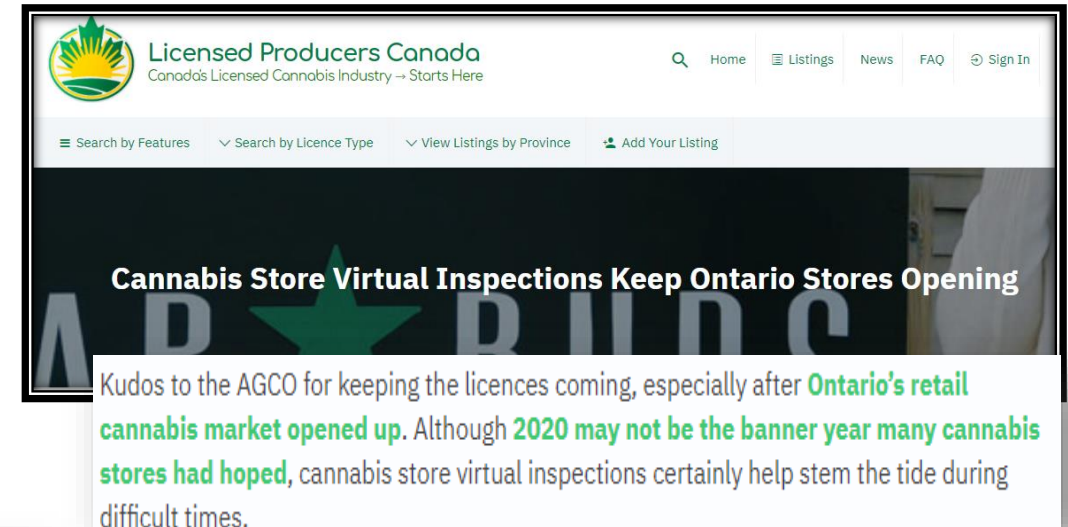
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# Stakeholder reaction



Hundreds of virtual investigations were conducted by the **Alcohol and Gaming Commission of Ontario (AGCO)**. The inspections were virtual due to the statewide lockdown, two months ago, which came at a crucial time for the cannabis business.



Typically, the process of licensing a store involves multiple in-person meetings and inspections. But instead of hitting the breaks on store openings when Ontario enacted its emergency order, the AGCO pivoted to conducting inspections using Apple's FaceTime app.





Thank you!

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## Useful links

- *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996*, S.O. 1996, c. 26, Sched. <https://www.ontario.ca/laws/statute/96a26/>
- Registrar's Standards for Cannabis Retail Stores <https://www.agco.ca/cannabis/registrars-standards-cannabis-retail-stores>
- Registrar's Standards for Gaming <https://www.agco.ca/lottery-and-gaming/registrars-standards-gaming>
- AGCO Annual Report <https://www.agco.ca/annual-reports-and-business-plan>



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# Useful links

- [\*Cannabis Licence Act, 2018\*](#)  
[\*Regulation 468/18\*](#)
- [\*Gaming Control Act, 1992\*](#)  
[\*Regulation \(78/12\)\*](#)  
Regulations effective before June 1, 2012 ([385/99](#); [197/95](#); [281/07](#); [68/94](#))
- [\*Liquor Licence Act\*](#)  
Regulations ([58/00](#); [718/90](#); [719/90](#); [720/90](#); [70/09](#); [783/94](#); [389/91](#))
- [\*Wine Content and Labelling Act, 2000\*](#)  
[\*Regulation \(659/00\)\*](#)
- [\*Liquor Control Act\*](#)  
[Section 3\(1\)b, e, f, g and 3\(2\)a](#)  
[Ontario Regulation 232/16](#)
- [\*Horse Racing Licence Act, 2015\*](#)  
[Ontario Regulation 61/16](#)
- [Order in Council 1413/08](#)



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